

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

THOMAS WILLIAM BAKER,)	
)	
Movant,)	
)	
VS.)	Civ. No. 15-1216-JDT-egb
)	Crim. No. 06-10083-JDT
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER GRANTING MOTION TO WITHDRAW § 2255
AND DISMISSING CASE WITHOUT PREJUDICE

The Movant, Thomas William Baker, filed a motion pursuant to 28 U.S.C. § 2255 in which he contended his sentence is constitutionally invalid under the Supreme Court’s decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). (ECF No. 1.). He has now filed a motion to withdraw the petition and to “expunge” it from the docket. (ECF No. 19.) The request states, “I would like to withdraw my 2255, & all, attached amendments. Please expunge it from my docket, and mail it back to Sandra Baker.” (*Id.*) The Court construes this request as a motion to dismiss the case without prejudice pursuant to Federal Rule of Civil Procedure 41(a).

Under Rule 41, a case may be voluntarily dismissed at any time by filing a notice “before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). Therefore, although Baker does not state why he wishes to withdraw this proceeding, he is entitled to do so. However, Baker’s request to expunge his § 2255 motion and the amendments thereto is unclear. If he is asking for his original “hard-copy” § 2255 documents to be returned and for the official Court file to be deleted from the Electronic Case Filing system, such a request is

inappropriate. Baker has not explained why such drastic action should be taken and has offered no authority for the Court to grant such a request. Official Court records may not be deleted or destroyed simply on request of a party.

Accordingly, the motion to withdraw the § 2255 case is GRANTED, and this matter is DISMISSED without prejudice. However, the request to “expunge” the record is DENIED.¹ The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ If Baker needs copies of his § 2255 motion and amendments, they are available from the Clerk upon request for 50¢ per page.